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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,971	10/15/2003	Andrea Koerselman	42280.2400	7935
20322	7590	05/22/2006	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 85004-2202			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/685,971	KOERSELMAN ET AL.
	Examiner	Art Unit
	Carolyn T. Blake	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 February 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 22, 2006 has been entered.

### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in the European Patent Office on October 15, 2002. It is noted, however, that Applicant has not filed a certified copy of the 02405885.1 and 02405884.4 applications as required by 35 U.S.C. 119(b).

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: "slidable along said at least one of said longitudinal edges" should be changed to - -slidable along at least one of said longitudinal edges- -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Börner (3,583,454).

Regarding claim 1, Börner discloses the invention as claimed, including a food cutting device comprising: a body having two longitudinal edges (8, 9) and a blade (2) configured such that its cutting edge is a predetermined distance from a plate (1) provided therein; a food holder (12, 13, 14, 15) having a guide (21) configured to slidably connect to at least one of said longitudinal edges (8, 9) of said body to thereby bring a food item in contact with said blade (2), said food holder configured to be simultaneously slidably along said at least one of said longitudinal edges and rotatable relative to said blade during use (see col. 2, lines 25-27).

Regarding claim 3, Börner discloses the food holder (12) is configured to slide along an axis parallel to said longitudinal edges (8, 9).

Regarding claim 5, the Börner plate (1) is removable from said body.

Regarding claims 6-8, Börner discloses the food holder (12, 13, 14, 15) includes a hollow portion (13), a plunger portion (15), and a plurality of protrusions (14) along at least one of its surfaces.

#### ***Claim Rejections - 35 USC § 103***

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Börner as applied to claim 1 above, and further in view of Kim (5,765,472). Börner fails to disclose the blade is substantially "V"-shaped. However, Kim discloses a food cutting device

wherein the blade (24) is substantially "V"-shaped, which would create a different shape sliced work product than the diagonal blade disclosed by Börner. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a substantially "V"-shaped blade, as disclosed by Kim, on the Börner device for the purpose of creating a particular cut.

***Response to Arguments***

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

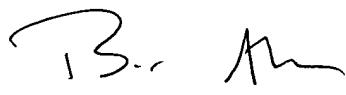
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

CB  
May 3, 2006

  
BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER